

Environmental Protection Agency

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§ 35.935-14 Final inspection.

The grantee shall notify the Regional Administrator through the State agency of the completion of step 3 project construction. The Regional Administrator shall cause final inspection to be made within 60 days of the receipt of the notice. When final inspection is completed and the Regional Administrator determines that the treatment works have been satisfactorily constructed in accordance with the grant agreement, the grantee may make a request for final payment under § 35.945(e).

§ 35.935-15 Submission and approval of industrial cost recovery system.

The grantee shall obtain the approval of the Regional Administrator of its system of industrial cost recovery. (See also § 35.928 *et seq.*)

(a) *Step 3 grant assistance awarded under regulations promulgated on February 11, 1974.* (1) The grantee must obtain the approval of the Regional Administrator for the system of industrial cost recovery (see § 35.928 *et seq.*). The Regional Administrator shall not pay more than 50 percent of the Federal share of any step 3 project unless the grantee has submitted adequate evidence of timely development of its system of industrial cost recovery nor shall the Regional Administrator pay more than 80 percent of the Federal share unless he has approved the system.

(2) Payments of grantees held under paragraph (a)(1) of this section shall be released after April 25, 1978. However, the grantee shall obtain approval of its industrial cost recovery system by June 30, 1979, or no further payments will be made until the system is approved.

(b) *Step 3 grant assistance awarded after April 24, 1978, but before July 1, 1979.* The grantee must obtain approval of its industrial cost recovery system under these regulations, except for the ordinance and rates, before July 1, 1979. The Regional Administrator shall not make any payments on these grants and shall not award any new step 3 grants to the same grantee after June 30, 1979, if the industrial cost recovery system, except for the ordinance and rates, has not been approved. The

grantee shall enact the ordinance required under § 35.928-1(h) and submit the ordinance and industrial cost recovery system rates to the Regional Administrator who must approve the ordinance before the treatment works are placed in operation.

(c) *Step 3 grant assistance awarded after June 30, 1979.* The grantee must obtain the Regional Administrator's approval of the industrial cost recovery system under these regulations, except for the ordinance and rates, before grant award. The grantee shall enact the ordinance required under § 35.928-1(h) and submit the ordinance and industrial cost recovery system rates to the Regional Administrator who must approve the ordinance before the treatment works are placed in operation.

§ 35.935-16 Sewer use ordinance and evaluation/rehabilitation program.

(a) The grantee must obtain the approval of the Regional Administrator of its sewer use ordinance under § 35.927-4.

(b) Except as provided in paragraphs (c) and (d) of this section, the Regional Administrator shall not pay more than 80 percent of the Federal share of any step 3 project unless he has approved the grantee's sewer use ordinance, and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement under § 35.927-5.

(c) In projects where segmenting of an operable treatment works has occurred, the Regional Administrator shall not pay more than 80 percent of the Federal share of the total of all interdependent step 3 segments unless he has approved the grantee's sewer use ordinance and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement under § 35.927-5.

(d) In multiple facility projects where an element or elements of the treatment works are operable components and have been completely constructed and placed in operation by the grantee, the Regional Administrator shall not make any additional step 3 payment unless he has approved the grantee's sewer use ordinance and the grantee is complying with the sewer

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system evaluation and rehabilitation schedule incorporated in the grant agreement under § 35.927-5.

§ 35.935-17 Training facility.

If assistance has been provided for the construction of a treatment works required to train and upgrade waste treatment personnel under §§ 35.930-1(b) and 35.920-3(e), the grantee must operate the treatment works as a training facility for a period of at least 10 years after construction is completed.

§ 35.935-18 Value engineering.

A grantee must comply with the applicable value engineering requirements of § 35.926.

§ 35.935-19 Municipal pretreatment program.

The grantee must obtain approval by the Regional Administrator of the municipal pretreatment program in accordance with part 403 of this chapter. Prior to granting such approval, the Regional Administrator shall not pay more than 90 percent of the Federal share of any step 3 project or cost of step 3 work under a step 2=3 project awarded after October 1, 1978, except that for any such grant assistance awarded before December 31, 1980, the Regional Administrator may continue grant payments if he determines that significant progress has been made (and is likely to continue) toward the development of an approvable pretreatment program and that withholding of grant payments would not be in the best interest of protecting the environment.

§ 35.935-20 Innovative processes and techniques.

If the grantee receives 85-percent grant assistance for innovative processes and techniques, the following conditions apply during the 5-year period following completion of construction:

(a) The grantee shall permit EPA personnel and EPA designated contractors to visit and inspect the treatment works at any reasonable time in order to review the operation of the innovative processes or techniques.

(b) If the Regional Administrator requests, the grantee will provide EPA

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with a brief written report on the construction, operation, and costs of operation of the innovative processes or techniques.

§ 35.936 Procurement.

(a) Sections 35.936 through 35.939 set forth policies and minimum standards for procurement of architectural or engineering services as defined in § 35.937 and construction contracts as described in § 35.938 by grantees under all steps of grants for construction of treatment works. Acquisition of real property shall be conducted in accordance with part 4, subpart F of this chapter. Other procurements of goods and services shall be conducted in accordance with the provisions of part 33 of this subchapter.

(b) This subpart does not apply to work beyond the scope of the project for which grant assistance is awarded (i.e., ineligible work).

§ 35.936-1 Definitions.

As used in §§ 35.936 through 35.939, the following words and terms shall have the meaning set forth below. All terms not defined herein shall have the meaning given to them in § 30.135 of this subchapter, and in § 35.905.

(a) *Grant agreement.* The written agreement and amendments thereto between EPA and a grantee in which the terms and conditions governing the grant are stated and agreed to by both parties under § 30.345 of this subchapter.

(b) *Subagreement.* A written agreement between an EPA grantee and another party (other than another public agency) and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts and subcontracts for personal and professional services, agreements with consultants and purchase orders, but excluding employment agreements subject to State or local personnel systems. (See §§ 35.937-12 and 35.938-9 regarding subcontracts of any tier under prime contracts for architectural or engineering services or construction awarded by the grantee—generally applicable only to subcontracts in excess of \$10,000.)